

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

JOSHUA STEPHENSON, :
: Petitioner, :
: v. : Civil Action No. 08-210-JJF
: :
PERRY PHELPS, :
Warden, and ATTORNEY :
GENERAL OF THE STATE :
OF DELAWARE, :
: Respondents. :
:

O R D E R

WHEREAS, you have filed papers indicating your wish to pursue federal habeas relief pursuant to 28 U.S.C. § 2254; and

WHEREAS, the Court advises you that the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"), 28 U.S.C. § 2244, applies to the pending petition and imposes a one-year period of limitation on the filing of habeas petitions and effectively precludes petitioners from filing a second or subsequent habeas petition except in the most unusual of circumstances. 28 U.S.C. § 2244(b); 28 U.S.C. § 2244(d)(1); See United States v. Miller, 197 F.3d 644 (3d Cir. 1999); Mason v. Meyers, 208 F.3d 414 (3d Cir. 2000); and

WHEREAS, if you are seeking federal habeas relief pursuant to 28 U.S.C. § 2254, you must complete the attached form titled "Petition for Relief From a Conviction or Sentence By a

Person in State Custody" filed pursuant to 28 U.S.C. § 2254, designate the proper respondents (your custodian and the Attorney General of the State of Delaware), return the form § 2254 petition to the Court, and also return the attached election form to the Court by the date indicated below.

NOW, THEREFORE, IT IS ORDERED this 12 day of May, 2008;

1. The Clerk shall attach to this order the form titled "Petition for Relief From a Conviction or Sentence By a Person in State Custody" filed pursuant to 28 U.S.C. § 2254.

2. On or before JUNE 30, 2008, you must complete and file with the Court the attached form § 2254 petition and the attached AEDPA election form. Failure to comply with these requirements and timely return the completed forms as described above may result in the dismissal of the pending action.


UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

JOSHUA STEPHENSON, :
: Petitioner, :
: v. : Civil Action No. 08-37-JJF
: PERRY PHELPS, :
Warden, and ATTORNEY :
GENERAL OF THE STATE :
OF DELAWARE, :
: Respondents. :
:

AEDPA ELECTION FORM

1. _____ I agree that my pending complaint is a petition for federal habeas relief filed pursuant to 28 U.S.C. § 2254. I am filing a proper form for federal habeas relief pursuant to 28 U.S.C. § 2254 along with this election form, and I wish the court to rule on the grounds asserted in my form § 2254 petition. I realize that the law does not allow me to file successive or later petitions unless I receive certification to do so from the United States Court of for the Third Circuit; therefore, this petition will be my one opportunity to seek federal habeas corpus relief.

2. _____ I agree that my pending complaint is a petition for federal habeas relief filed pursuant to 28 U.S.C. § 2254. However, I wish to amend my § 2254 petition to include all the grounds I have. I will complete and file a proper form § 2254 petition with all my grounds and amendments within thirty (30) days. I realize that the law does not allow me to file successive or later petitions unless I receive certification to do so from the United States

Court of Appeals for the Third Circuit; therefore, this amended all-inclusive petition will be my one opportunity to seek federal habeas corpus relief.

3. _____ I agree that my pending complaint is a petition for federal habeas relief filed pursuant to 28 U.S.C. § 2254. However, I wish to withdraw my § 2254 petition without prejudice to file one all-inclusive petition in the future; that is, one that raises all the grounds I have for federal habeas corpus relief. I realize this all-inclusive petition must be filed within the one-year period as defined by 28 U.S.C. § 2244(d). See Swartz v. Meyers, 204 F.3d 417 (3d Cir. 2000).

4. _____ I do not agree with the court's re-characterization of my complaint as a § 2254 petition because I am not seeking federal habeas corpus relief. I am instead seeking relief under _____.

Petitioner